

REMARKS

Claims 1, 3, 6, 7, and 23 are all the claims pending in the application. This Response, submitted in reply to the Office Action dated June 23, 2008, is believed to be fully responsive to each point of rejection raised therein. Accordingly, favorable reconsideration on the merits is respectfully requested.

Claim Rejections

Claims 1, 3, 6, 7 and 23 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ichikawa et al. (2004/0043154; henceforth “Ichikawa ‘154”) or Japan 2003-275642 to Ichikawa et al. (henceforth “Ichikawa ‘642”) in view of Wallsten (US 4,102,299) and Mandai et al. (US 2003/0099769; henceforth “Mandai”). Applicant respectfully Applicant respectfully traverses this rejection.

Applicant notes that the present application claims foreign priority to JP 2003-8985, filed January 17, 2003. Conversely, Ichikawa ‘642 has a publication date of September 30, 2003. Similarly, Ichikawa ‘154 has a publication date of March 4, 2004 and Mandai has a publication date of May 29, 2003. Therefore, Applicant submits herewith a verified English translation of JP 2003-8985 and respectfully submits that Ichikawa ‘642 is not prior art as it was not published prior to the priority date of the present Application. Further, Applicant submits that Ichikawa ‘154 and Mandai are not available as references under 102(a) or 102(b), but are only available under 102(e) as of their respective filing dates.

Under 35 U.S.C. §103(c):

“Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under [§103] where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.”

Since the present invention (Reel 014904, Frame 0082, Date recorded January 20, 2004), Ichikawa '154 (Reel 021035, Frame 0985, Date recorded June 3, 2008) and Mandai (Reel 013334, Frame 0424, Date recorded September 25, 2002) were commonly owned by FUJIFILM CORPORATION at the time of the making of the present invention, Ichikawa '154 and Mandai are not available as prior art under §103(c).

Due to the filing date of the instant application, January 20, 2004, the instant application is an application to which the newly amended 35 U.S.C. §103(c) applies. As to the methods for fulfilling the evidence requirements relating to ownership, see the discussion by the USPTO on its website at "<http://www.uspto.gov/web/offices/dcom/olia/aipa/infoexch.htm>".

FUJIFILM CORPORATION is the assignee of Ichikawa '154 and Mandai and is also the assignee of the above-captioned U.S. Application No. 10/759,129. The undersigned hereby represents that Ichikawa '154, Mandai and the claimed invention were, at the time the invention of the instant application was made, owned or subject to an obligation of assignment to FUJIFILM CORPORATION.

In view of the above, Applicant respectfully submits that Ichikawa '154 and Mandai is not available as art under 35 U.S.C. §103. Further, as discussed above, Ichikawa '642 is also not available as art, as it was published after the foreign priority date of the present Application. Further, Applicant submits that Wallsten alone does not teach all the features of the present claims and therefore requests that the rejection under 35 U.S.C. §103(a) be reconsidered and withdrawn.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880 via EFS payment screen. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/SMG/

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